

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

IN RE: COOK MEDICAL, INC, IVC FILTERS
MARKETING, SALES PRACTICES AND
PRODUCTS LIABILITY LITIGATION

Case No. 1:14-ml-2570-RLY-TAB
MDL No. 2570

This Document Relates to Plaintiff(s):

Donna Smith, as Personal Representative of the
Estate of Philip Sevene, Deceased

Civil Case # 1:20-cv-06246-RLY-TAB

SECOND AMENDED SHORT FORM COMPLAINT

COMES NOW the Plaintiff(s) named below, and for Complaint against the Defendants named below, incorporate The Master Complaint in MDL No. 2570 by reference (Document 213). Plaintiff(s) further show the court as follows:

1. Plaintiff/Deceased Party:

Philip Sevene (Deceased)

2. Spousal Plaintiff/Deceased Party's spouse or other party making loss of consortium claim:

N/A

3. Other Plaintiff and capacity (i.e., administrator, executor, guardian, conservator):

Donna Smith, as Personal Representative of the Estate of Philip Sevene, Deceased

4. Plaintiff's/Deceased Party's state of residence at the time of implant:

California

5. Plaintiff's/Deceased Party's state of residence at the time of injury:

California

6. Plaintiff's/Deceased Party's current state of residence:

California

7. District Court and Division in which venue would be proper absent direct filing:

United States District Court, Southern District of California

8. Defendants (Check Defendants against whom Complaint is made):

- ☒ Cook Incorporated
☒ Cook Medical LLC
☒ William Cook Europe ApS

9. Basis of Jurisdiction:

☒ Diversity of Citizenship

☐ Other: _____

- a. Paragraphs in Master Complaint upon which venue and jurisdiction lie:

For purposes of remand and trial, venue is proper pursuant to 28 U.S.C. §1391 in the federal judicial district of each Plaintiff's state of residence. A substantial amount of activity giving rise to the claims occurred in this District, and Defendants may be found within this District. Therefore, venue is proper in this jurisdiction under 28 U.S.C. §1391.

- b. Other allegations of jurisdiction and venue:

10. Defendants' Inferior Vena Cava Filter(s) about which Plaintiff(s) is making a claim

(Check applicable Inferior Vena Cava Filters):

- ☐ Günther Tulip® Vena Cava Filter
 - ☒ Cook Celect® Vena Cava Filter
 - ☐ Gunther Tulip Mreye
 - ☐ Cook Celect Platinum
 - ☐ Other:
-

11. Date of Implantation as to each product:

06/13/2014

12. Hospital(s) where Plaintiff was implanted (including City and State):

Scripps Memorial Hospital

La Jolla, California

13. Implanting Physician(s):

Stephen B. Hulse, M.D.

14. Counts in the Master Complaint brought by Plaintiff(s):

- ☒ Count I: Strict Products Liability – Failure to Warn
- ☒ Count II: Strict Products Liability – Design Defect
- ☒ Count III: Negligence
- ☒ Count IV: Negligence Per Se

- ☒ Count V: Breach of Express Warranty
- ☒ Count VI: Breach of Implied Warranty
- ☒ Count VII: Violations of Applicable California (insert State)

Law Prohibiting Consumer Fraud and Unfair and Deceptive Trade Practices

- ☐ Count VIII: Loss of Consortium
- ☐ Count IX: Wrongful Death
- ☐ Count X: Survival
- ☒ Count XI: Punitive Damages
- ☐ Other: _____

- ☒ Other: Fraudulent Concealment

(please state the facts supporting this Count in the space, immediately below)

Additional facts supporting Counts I, III, V, VI, VII, XI and Fraudulent
Concealment are included in Exhibit "A" which is incorporated by reference
herein.

15. Attorney(s) for Plaintiff(s):

Ben C. Martin

Thomas Wm. Arbon

16. Address and bar information for Attorney for Plaintiff(s):

3141 Hood Street, Suite 600, Dallas, TX 75219

Ben C. Martin, SBN: 13052400

Thomas Wm. Arbon, SBN: 01284275

RESPECTFULLY SUBMITTED this 24th day of June 2025 .

/s/ Ben C. Martin

Ben C. Martin, Esquire (TX Bar No. 13052400)

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Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on 06/24/2025, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the CM/ECF participants registered to receive service in this MDL.

/s/ Ben C. Martin
Ben C. Martin